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6 Attorneys for DEFENDANTS

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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10
11 CHUBB CUSTOM INSURANCE COMPANY,
a Delaware Corporation,

12 Plaintiffs,

13 v.

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15 THE ALLEN EARLEY 1998 FAMILY
TRUST, a California Trust; ALLEN EARLEY
16 PLANTERS PROJECT, LP, a California
Limited Partnership, and Does 1-10

17 Defendants.

18 CASE NO. 2008 CV 1074 BTM CAB

**NOTICE OF MOTION TO DISMISS
BASED ON PRIOR PENDING STATE
COURT ACTION**

**NO ORAL ARGUMENT UNLESS
REQUESTED BY COURT**

19 Date: September 5, 2008

Time: 11:00 a.m.

Place: Courtroom 15

Hon. Barry T. Moskowitz

20 TO PLAINTIFF AND ITS ATTORNEYS OF RECORD:

21 PLEASE TAKE NOTICE THAT ON September 5, 2008, or as soon thereafter as the matter
22 may be heard in the above entitled court, located at 940 Front Street, San Diego, CA 92101, defendants
23 The Allen Earley 1998 Family Trust and the Allen Earley Planters Project, LP, will move this court to
24 dismiss the action based on pursuant to prior pending state court action, as well as doctrines of comity,
25 the anti-injunction statute, and abstention.

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1 The motion will be based upon this Notice of Motion, the memorandum of points and
2 authorities filed herewith, the attached Request for Taking Judicial notice under FRE section 201, and
3 the pleadings and papers filed herein.

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5 Dated: July 11, 2008

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By:

WARD & HAGEN, LLP



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Ralph W. Peters, Esq.

Attorneys for Defendants

THE ALLEN EARLEY 1998 FAMILY
TRUST and ALLEN EARLEY PLANTERS
PROJECT L.P.

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